



OFFICE OF CHIEF COUNSEL FOR ADVOCACY

U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

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November 20, 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
The Portals  
445 12th Street, SW TW-A325  
Washington, DC 20554

RE: Notice of Ex parte Presentation in Non-Restricted Proceeding  
In re Federal-State Joint Board on Universal Service (CC Dkt. No. 96-45)

Dear Ms. Salas:

The Office of Advocacy, U.S. Small Business Administration ("Advocacy"), by its undersigned representative and in accordance with Section 1.1206 of the Commission's rules, hereby respectfully submits an original and five copies of this ex parte notification and written presentation for the aforementioned proceeding.

S. Jenell Trigg and Eric E. Menge, Assistant Chief Counsels for Telecommunications for Advocacy, met with staff members of the Accounting Policy Division of the Common Carrier Bureau, Federal Communications Commission on Thursday, November 19, 1998. Present at this meeting were Craig J. Brown, Deputy Chief; Katherine King and Richard Smith, Attorney-Advisors; Robert Loube and Jeffrey Prisbrey, Economists. The primary issue was whether there should continue to be universal service support for multiple-line businesses or whether there should be a reduction in or an elimination of such support for the FCC's implementation of transition mechanisms for price cap carriers.

Advocacy reiterated its position that the FCC should not differentiate between classes of consumers for universal support since businesses are indeed "consumers" as designated in the statute and such differentiation would significantly harm small businesses in high cost/rural areas. Advocacy's presentation at this meeting is consistent with its extensive comments previously on the record in the Federal-State Joint Board on Universal Service (CC Dkt. No. 96-45) and related Access Charge Reform (CC Dkt. No. 96-262) proceedings. The attached written summary of Advocacy's comments were presented to the staff.

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One new argument not expressed in previous comments and discussed in this meeting is detailed below.

Advocacy has asserted previously that to condition universal service support on the class of consumer (residential v. business – and businesses with a single line v. businesses with multiple lines) is inconsistent with the plain language of Section 254 of the Telecommunications Act of 1996 (“1996 Act”), the legislative history, and the FCC’s statutory obligation to “preserve and advance” the Nation’s universal service public policy, not restrict the program. Additionally, such restriction or elimination of universal support for multiple business lines is inconsistent with the explicit statutory protections for rural health care providers. 47 U.S.C. § 254(h)(1)(A). The Commission is required to ensure that any public or non-profit health care provider serving persons who reside in rural areas shall receive “rates that are reasonably comparable to rates charged for similar services in urban areas in that State.” *Id.* The Commission acknowledged that Section 254 “contemplates a support mechanism designed to reduce rural rates to a level ‘reasonably comparable’ to urban rates,” *In re* Federal-State Joint Board on Universal Service, *Report and Order*, 12 FCC Rcd 8776, para. 640 (1997) (emphasis added) and adopted measures to meet this statutory duty. *Id.* paras. 657–685.

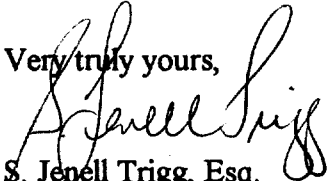
Advocacy asserts that elimination or reduction of universal support for multiple-line businesses not only undermines the Commission’s previous efforts, but would not achieve the statutory objective to reduce rates. Any mechanism for price cap carriers that does not compensate the carrier for a higher cost of providing service in rural areas will most likely be passed on to the end user, i.e. the consumer. The varied types of rural health care providers enumerated in 47 U.S.C. § 254(h)(5)(B) are business consumers and certainly have multiple lines. They then would be subject to higher rates.

Therefore, there would be a need to carve out rural health care providers from all other multiple-line businesses. Advocacy believes that such a distinction would be administratively burdensome for the carriers, as well as for the FCC and possibly State Public Utility/Service Commissions. Moreover, although rural health care providers received special attention in the 1996 Act, it would be patently unfair to other rural businesses, especially small businesses, who do not currently enjoy the benefits of competition in their service area and would have to pay higher rates than their urban counterparts.

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For this and previously expressed reasons, the Office of Advocacy strongly encourages the Commission not to condition universal service support on the class of consumer and to continue full universal service support for small businesses with multiple lines.

If you have any questions regarding this filing, please contact me at 202-205-6950. Thank you.

Very truly yours,  
  
S. Jenell Trigg, Esq.  
Assistant Chief Counsel for  
Telecommunications

Office of Advocacy  
U.S. Small Business Administration  
409 Third Street, SW  
Washington, DC 20416  
202-205-6533

attachments: 1. Written Summary of Advocacy's Comments  
2. "By Any Measure – Small Businesses Are Important Consumers of Telecommunications Services" Chart, Office of Advocacy

cc: The Honorable William E. Kennard  
The Honorable Susan Ness  
The Honorable Michael Powell  
The Honorable Gloria Tristani  
The Honorable Harold Furchtgott-Roth  
Mr. Lawrence E. Strickling  
Ms. Lisa Gelb  
Mr. Craig J. Brown  
Ms. Katherine King  
Mr. Richard Smith  
Mr. Robert Loube  
Mr. Jeffrey Primbrey



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OFFICE OF CHIEF COUNSEL FOR ADVOCACY

**Office of Advocacy**  
**Ex Parte Written Presentation**  
**on**  
**Universal Service, Section 254 of the Telecommunications Act of 1996**

The Office of Advocacy summarizes the reasons why all local exchange carriers that serve America's businesses with multiple lines – the majority of which are small businesses – should continue to receive universal support in high cost and rural areas.

**I. LEGAL**

**Small Businesses are consumers, by any definition!**

- \* Elimination or restriction of US support for multiple-line businesses is inconsistent with the congressional mandate of Section 254.

**“Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar service in urban areas.”** 47 U.S.C. § 254(b)(3) (emphasis added).

- \* Legislative history clearly notes intent and priority of Congress to codify long-standing public policy of access to affordable local telephone service. No history in this policy of distinguishing between types of end-users.

Purpose of Joint board is to “preserve and advance this fundamental communications policy goal.” S. 652 as reported in Joint Conf. Rpt. No. 104-230 (1996) at 128.

- \* A blanket restriction or elimination of multiple-line business support would also violate the statutory protections for health care providers in Sec. 254(h)(1). Any public or non-profit health care provider “serving persons who reside in rural areas” shall receive “rates that are reasonably comparable to rates charged for similar services in urban areas in that State.” Joint Explanatory State of the Committee of the Conf., S. 652 Conf. Rep. No. 104-230 at 133. How do you carve out health care providers from all multiple line businesses?
- \* Priority in funding should be for the high cost fund – whether it is for price cap or rate-of-return carriers. “Preferential” discounts for the schools, libraries, and rural health care programs, added by an amendment, is ancillary (albeit still important) to preservation of the high cost program.



## II. FACTUAL

- \* The average small business has multiple telephone lines given the growth in technology and critical communications needs:
  - \* **4 lines** FCC, PNR Associates Study, FCC Press Release, May 7, 1997.
  - \* **8 lines** California Small Business Association National Business Telephone User Poll Toll Study, April 12, 1997.
  - \* **2-6 lines** National Federation of Independent Businesses, "Who Will Connect Small Business to the Information Superhighway?," Dec. 1994.
- \* There are 23 million small businesses in America – 99.8% of all businesses. 20% of small business are located in rural areas. OoA, Office of Economic Research, Rural v. Urban Study, Dec. 1998 pending release.
- \* As a class, small business is the engine that is driving this nation's economy:
  - \* **Provide virtually all net new jobs**
  - \* **Represent 99.7% of all employers**
  - \* **Employ 53% of the private work force**
  - \* **Provide 47% of receipts (sales)**
  - \* **Provide 55% of innovations**
  - \* Account for 28% of jobs in high technology sectors1997 Small Business Answer Card.
- \* Individually, 50% of SBs have zero net income or profits making it difficult to absorb increases in fixed costs such as telephone service. 1993-94 Statistics of Income.
- \* The smallest business are the most vulnerable – margins are the slimmest.
  - \* Sole proprietorships and SBs with less than 5 employees dissolution rates are, respectively, 372% and 42% higher than national average. The State of Small Business, 1995, at 243.

## III. PUBLIC INTEREST, ECONOMIC, AND POLICY

- \* Restrictions or elimination of US support in rural areas discourages growth and economic development in rural areas - further isolating rural America. Elimination or restrictions on support would have immediate impact on small business.
  - \* If \$10 increase – 3.6% would discontinue service altogether.
  - \* If \$25 increase – 20%. OoA 12/16/96 at 17 (citing OPASTCO "Keeping Rural America Connected" study).

- \* 9% of SBs would relocate if faced increases of 25% or higher. Another 35% were undecided. OoA 12/16/96 at 18 (citing OPASTCO "Keeping Rural America Connected" study).
- \* 37% of rural SB's would decrease phone lines if monthly phone bill increased 25%. 59.1% would cut back if a 50% increase. CSBA Telephone Toll, at 6-7.
- \* 30.2% of rural SBs might reduce workforce if 25% increase of monthly costs. However, 20.0% would cut back on staff if 50% increase. CSBA Telephone Toll, at 6-7.
- \* Undetermined how many SBs would fail to add a second line or subscribe to advanced telecommunications services – or fail to hire more people – or fail to succeed!
- \* Cumulative impact of US reductions and access charge reform induced increases (SLC and PICC) will be disastrous for many small businesses.
  - \* Additional increases in surcharges from LEC and IXC's
  - \* Absence of lower per minute long distance rates
- \* Presence of a large business (i.e. Saturn plant) in a high cost/rural area is supported by small business retail and service industries (e.g. gas stations, cleaners, child-care, grocery stores, hardware stores). The large volume user can negotiate cost savings if there is a loss of US with its carrier or select alternative service providers, however the SBs will be harmed.
- \* SBs in rural areas pay higher toll fees than urban area counterparts – offsetting any alleged "windfall" from universal service support.
- \* High cost and rural areas are less likely to see competitive local exchange entry in the near future - therefore less choices for consumers and continued higher rates.
- \* If you distinguish between residential and business consumers, then how do you distinguish between non-profit businesses, public service, and institutional/government offices? These are clearly not residential and have limited budgets to sustain increases in telephone service for multiple lines.
  - \* **Emergency call centers – 911 operators**
  - \* **Town halls and local government offices**
  - \* **Community centers**
  - \* **Nursing homes/hospitals**



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## **BY ANY MEASURE - SMALL BUSINESSES ARE IMPORTANT CONSUMERS OF TELECOMMUNICATIONS SERVICES!**

The Telecommunications Act of 1996 mandates that "[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas." 47 U.S.C. § 254(b)(3).

Given the tremendous growth in telecommunications technology and services - small businesses, which are the majority of businesses in the U.S., are a major consumer group. Multiple sources confirm that the majority of small businesses have more than one telephone line.

**Q: How many telephone lines does the average small businesses have?**

**A:**   -      

Source: *Who Will Connect Small Businesses To The Information Superhighway?*, National Federation of Independent Businesses Foundation, December 1994, at 7 (46.9% of small businesses have 2-3 lines and 18.4% have 4-6 lines. Overall, 72.7% of small businesses have more than one line.).

**A:**        

Source: *America's Small Business Speaks Out*, California Small Business Association National Business Telephone User Poll, April 12, 1997, at 4 (8 lines: 4 for voice services, one dedicated line each for a fax and modem, one cellular/car telephone line, and almost one line for 800 service. Moreover, just under 4-in-10 small business have 11 or more lines for business use.).

**A:**    

Source: PNR Associates Study, FCC Press Release, *Commission Reforms Interstate Access Charge Systems*, CC Dkt. No. 96-262, May 7, 1997 (4 lines).